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Attorneys for Defendant
County of Lake

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DALLAS WOLL,

Plaintiff,

v.

COUNTY OF LAKE, MARY JANE
FIGALDE, and HENRY BOUILLERCE,

Defendants.

Case No. CV 07 6299 BZ

(Unlimited Civil Case)

Hon. Magistrate Bernard Zimmerman

**DEFENDANT COUNTY OF LAKE'S
AMENDED ANSWER TO COMPLAINT**

Comes now Defendant County of Lake in response to plaintiff's complaint and amends its
answer as follows.

GENERAL RESPONSE TO PARAGRAPHS

1 through 15, Inclusive

JURISDICTION

1. The County denies the applicability of Title 42 of the United States Code §1983 due to
lack of information and knowledge sufficient to form a belief. Defendant admits that defendants
reside in this Judicial District.

PARTIES

2. The County denies the allegations of paragraph 2 based upon a lack of information and
knowledge sufficient to form a belief.

3. The County admits the allegations of paragraph 3.

4. The County denies the allegation that Mary Jane Figalde is an employee of the Lake County Community Development and denies the remaining allegations of paragraph 4 for lack of information and belief.

5. The County denies, generally and specifically, the allegations of Paragraph 5 except for the allegation that said parcel is located in an unincorporated area of the County of Lake, at 6585 Jacobsen Road, Kelseyville, California.

6. The County admits that the Lake County Community Development Department recorded a Notice of Nuisance on December 16, 2005 but denies, generally and specifically, the remaining allegations of the first sentence of Paragraph 6. The County denies, generally and specifically, the remaining allegations of Paragraph 6 for lack of information and belief.

7. The County denies, generally and specifically, the allegations of Paragraph 7.

8. The County denies, generally and specifically, the allegations of Paragraph 8.

9. The County denies, generally and specifically, the allegations of Paragraph 9.

10. The County denies, generally and specifically, the allegations of Paragraph 10.

11. The County denies, generally and specifically, the allegations of Paragraph 11.

12. The County denies, generally and specifically, the allegations of Paragraph 12.

13. The County denies, generally and specifically, the allegations of Paragraph 13.

14. The County denies, generally and specifically, the allegations of Paragraph 14.

15. The County denies, generally and specifically, the allegations of Paragraph 15.

JURY TRIAL DEMANDED

The County likewise demands a trial by jury.

AFFIRMATIVE DEFENSES

AS AND FOR A SEPARATE, DISTINCT AND AFFIRMATIVE DEFENSE to the complaint, this answering defendant alleges that the complaint fails to state facts sufficient to constitute a cause of action against any of said defendants.

AS AND FOR A FURTHER SEPARATE, DISTINCT AND AFFIRMATIVE DEFENSE to the complaint, this answering defendant alleges that should plaintiff recover damages against it, this

1 answering defendant should be entitled to have the amount reduced or eliminated to the extent that
2 plaintiff's negligence and/or fault caused the damages herein.

3 AS AND FOR A FURTHER SEPARATE, DISTINCT AND AFFIRMATIVE DEFENSE to
4 the complaint, this answering defendant alleges that plaintiff assumed the risk of the matters referred
5 to in the complaint and that he knew and appreciated the nature of the risk, and that he voluntarily
6 accepted the risk.

7 AS AND FOR A FURTHER SEPARATE, DISTINCT AND AFFIRMATIVE DEFENSE to
8 the complaint, this answering defendant alleges that the sole and/or partial proximate cause of the
9 damages claimed was due to the negligence of co-defendants, and other persons, firms or entities not
10 specifically named in the complaint.

11 AS AND FOR A FURTHER SEPARATE, DISTINCT AND AFFIRMATIVE DEFENSE to
12 the complaint, this answering defendant alleges that in the event it is held liable to plaintiff, which
13 liability is expressly denied, and the co-defendants or other persons, firms or entities not specifically
14 named in the complaint, are likewise held liable, this defendant is entitled to percentage contribution
15 of the total liability from said co-defendant and/or unnamed parties in accordance with the principals
16 of equitable indemnity and comparative contribution.

17 AS AND FOR A FURTHER SEPARATE, DISTINCT AND AFFIRMATIVE DEFENSE to
18 the complaint herein, and each claim for relief thereof, this answering defendant alleges that at all
19 times mentioned in plaintiff's complaint, this defendant acted in good faith with the reasonable belief
20 as to the lawfulness of its actions.

21 AS AND FOR A FURTHER SEPARATE, DISTINCT AND AFFIRMATIVE DEFENSE to
22 the complaint, this answering defendant alleges that should plaintiff recover damages against
23 defendants, or any of them, this defendant should be entitled to have the amount reduced or
24 eliminated to the extent that plaintiff failed take reasonable steps to mitigate those damages.

25 AS AND FOR A FURTHER SEPARATE, DISTINCT AND AFFIRMATIVE DEFENSE to
26 the complaint herein, and each claim for relief thereof, this answering defendant alleges that at all
27 times mentioned in plaintiff's complaint, the actions of this defendant was privileged under the
28 surrounding circumstances.

1 AS AND FOR A FURTHER SEPARATE, DISTINCT AND AFFIRMATIVE DEFENSE to
2 the complaint herein, and each claim for relief thereof, this answering defendant alleges that at all
3 times mentioned in plaintiff's complaint the actions of the defendants, and each of them, were based
4 exclusively upon bona fide law enforcement considerations with a reasonable belief that their actions
5 were lawful, and as such they are protected by the qualified immunity privilege.

6 AS AND FOR A FURTHER SEPARATE, DISTINCT AND AFFIRMATIVE DEFENSE to
7 the complaint herein, and each claim for relief thereof, this answering defendant alleges that plaintiff
8 failed to exhaust administrative remedies.

9 AS AND FOR A FURTHER SEPARATE, DISTINCT AND AFFIRMATIVE DEFENSE to
10 the complaint herein, and each claim for relief thereof, this answering defendant alleges that, to the
11 extent the allegations made against this answering defendant by plaintiff's attempt to enlarge upon the
12 facts, contentions, or theories set forth in his respective claims heretofore presented to defendant, said
13 complaint is in violation of Government Code Sections 900, et seq., and defendant expressly reserves
14 the right to move to strike any and all such allegations and to object to the admission of any evidence
15 directed to the proof thereof.

16 AS AND FOR A FURTHER SEPARATE, DISTINCT AND AFFIRMATIVE DEFENSE to
17 the complaint herein, this answering defendant alleges that it is immune from liability pursuant to the
18 provisions of Government Code §§815 through 856.6, inclusive, §§900 through 913.2, inclusive, and
19 §§950 through 951, inclusive.

20 AS AND FOR A FURTHER SEPARATE, DISTINCT AND AFFIRMATIVE DEFENSE to
21 the complaint herein, and each claim for relief thereof, this answering defendant alleges that plaintiff
22 had full knowledge of the risks involved in the illegal activity in which he was engaged; that plaintiff
23 voluntarily assumed all the risks incident to the activity engaged in at the time and place mentioned in
24 the complaint; and that the loss or damage, if any, sustained by plaintiff was caused by said risks
25 which were accepted and voluntarily assumed by plaintiff when he engaged in said activities.

26 AS AND FOR A FURTHER SEPARATE, DISTINCT AND AFFIRMATIVE DEFENSE to
27 the complaint herein, and each claim for relief thereof, this answering defendant alleges that any
28 injuries suffered by plaintiff were caused by supervening events over which this defendant had no

1 control.

2 AS AND FOR A FURTHER SEPARATE, DISTINCT AND AFFIRMATIVE DEFENSE to
3 the complaint herein, and each claim for relief thereof, this answering defendant alleges that by way
4 of a plea of comparative negligence, plaintiff was negligent in and about the matters and activities
5 alleged; that said negligence contributed to and was a proximate cause of plaintiff's alleged injuries
6 and damages, if any, or was the sole cause thereof; and if plaintiff is entitled to recover damages
7 against defendant by virtue of this complaint, defendant prays that the recovery be diminished or
8 extinguished by reason of the negligence of the plaintiff in proportion to the degree of fault
9 attributable to him.

10 AS AND FOR A FURTHER SEPARATE, DISTINCT AND AFFIRMATIVE DEFENSE to
11 the complaint, this answering defendant alleges that, to the extent that plaintiff's civil rights were not
12 violated, no cause of action for violation of plaintiff's civil rights will lie.

13 WHEREFORE, the County prays as follows:

- 14 1. That plaintiff take nothing by reason of said complaint.
15 2. That this answering defendant be awarded reasonable attorney's fees, costs of suit and
16 such other and further relief as the Court deems just.

17
18 Dated: March 4, 2008

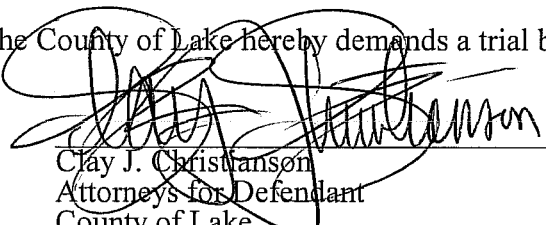
KELLY JACKSON & CHRISTIANSON, LLP

19
20 By 

21 Clay J. Christianson
22 Attorneys for Defendant COUNTY OF LAKE

23 **DEMAND FOR TRIAL BY JURY**

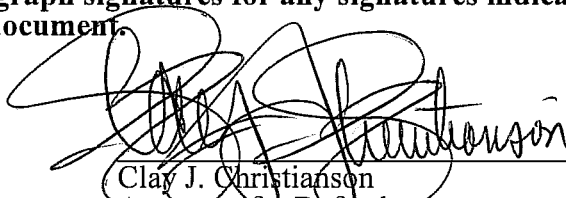
24 By way of endorsement hereon, the County of Lake hereby demands a trial by jury.

25
26 
27 Clay J. Christianson
28 Attorneys for Defendant
County of Lake

28 ////

SIGNATURE ATTESTATION

I attest that I have on file all holograph signatures for any signatures indicated by a conformed signature (/s/) within this e-filed document.



Clay J. Christianson
Attorneys for Defendant
County of Lake

Case No. CV 07 6299 BZ

U.S. District Court - Northern District

PROOF OF SERVICE BY MAIL
[FRCivP 5(b)]

I am employed in the County of Sonoma, California. I am over the age of eighteen years and not a party to the within entitled cause; my business address is 90 South E Street, Suite 310, Santa Rosa, California 95404. I am readily familiar with my employer's business practice for collection and processing of correspondence for mailing with the United States Postal Service, such correspondence would be deposited with the United States Postal Service that same day in the ordinary court of business.

On the date of execution of this declaration, I served the attached:

DEFENDANT COUNTY OF LAKE'S AMENDED ANSWER TO COMPLAINT

on the interested parties in said cause, addressed as follows:

Frear Stephen Schmid, Esq.
177 Post Street, Suite 890
San Francisco, CA 94108

Attorney for Plaintiff Dallas Woll
(415) 788-5957
(415) 788-5958 Fax

X (BY MAIL) I placed each such sealed envelope, with postage thereon fully prepaid, on the date of execution of this declaration, with our office outgoing mail following ordinary business practices.

____ (BY PERSONAL SERVICE) I caused each such envelope to be delivered by hand to the addressee(s) noted above.

____ (BY FACSIMILE) I caused the said document to be transmitted by Facsimile machine to the number indicated above.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made, and that this declaration was executed on March 4, 2008, at Santa Rosa, California.


Linda Moldrem